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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 08/913,430 | 12/09/1997 | JOHN WALKER | U011415-0 | 6829 |
| 7590 | 01/14/2005 | | EXAMINER | |
| LADAS & PARRY 26 WEST 61ST STREET NEW YORK, NY 10023 | | | SWARTZ, RODNEY P | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1645 | |

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------------|------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 08/913,430 | WALKER ET AL. | |
| | Examiner Rodney P. Swartz, Ph.D. | Art Unit 1645 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12October2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 53-59,67,70-72,75-83 and 86-94 is/are pending in the application.
- 4a) Of the above claim(s) 53-59,67 and 70-72 is/are withdrawn from consideration.
- 5) Claim(s) 75-83 and 86-94 is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 53-59,67,70-72,75-83 and 86-94 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Applicants' Response to Office Action, received 12October2004, is acknowledged. Claims 53-56, 59, 67, 70, 75, 76, 86, 93, and 94 have been amended. Claims 84, 85, and 95-98 have been canceled.

2. Claims 53-59, 67, 70-72, 75-83, and 86-94 are pending. Claims 53-59, 67, and 70-72 are withdrawn from further consideration by the examiner under 37 C.F.R. 1.142(b), as being drawn to a nonelected invention (Office Action, 24Novermber 1999, paper#17).

3. Claims 75-83 and 86-94 are under consideration.

Rejections Withdrawn/Moot

4. The rejection of claims 95-98 under 35 U.S.C. 112, second paragraph, as being indefinite, is moot in light of the cancellation of the claims.

5. The rejection of claims 84 and 85 under 35 U.S.C. 102(b) as being anticipated by Faulds et al (U.S. Pat. No. 5,252,328) is moot in light of the cancellation of the claims.

6. The rejection of claims 84 and 85 under 35 U.S.C. 102(e) as being anticipated by Bredt et al (U.S. Pat. No. 5,641,638) is moot in light of the cancellation of the claims.

7. The rejection of claims 93 and 94 under 35 U.S.C. 112, second paragraph, as being indefinite for "functional equivalent thereof", is withdrawn in light of the amendment of the claims.

8. The rejection of claim 75, 76, and 89-92 under 35 U.S.C. 102(b) as being anticipated by Faulds et al (U.S. Pat. No. 5,252,328) is withdrawn in light of the amendment of the claims.

9. The rejection of claims 75-83 and 86-94 under 35 U.S.C. 102(e) as being anticipated by Bredt et al (U.S. Pat. No. 5,641,638) is withdrawn in light of the amendment of the claims.

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Conclusion

10. Claims 75-83 and 86-94 appear to be free of the prior art of record.
11. This application is in condition for allowance except for the following formal matters:
Disposition of nonelected claims 53-59, 67, and 70-72.
Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213. A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (571)272-0864.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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RODNEY P SWARTZ, PH.D
PRIMARY EXAMINER

January 10, 2005